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EXAMINER

ROSEN, NICHOLAS D

ART UNIT PAPER NUMBER

3625

DATE MAILED: 08/27/2003

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

09/642,078

Applicant(s)

LA MURA ET AL.

Examiner

Nicholas D. Rosen

Art Unit

3625

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 8/18/00.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-19 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-3, 5-7, 10, 13 and 15-17 is/are rejected.
- 7) ☒ Claim(s) 4, 8, 9, 11, 12, 14, 18 and 19 is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☒ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 18 August 2000 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.
- Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- 11) ☐ The proposed drawing correction filed on _____ is: a) ☐ approved b) ☐ disapproved by the Examiner.
- If approved, corrected drawings are required in reply to this Office action.
- 12) ☐ The oath or declaration is objected to by the Examiner.

Priority under 35 U.S.C. §§ 119 and 120

- 13) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
 - ☐ Certified copies of the priority documents have been received in Application No. _____.
 - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- * See the attached detailed Office action for a list of the certified copies not received.
- 14) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. § 119(e) (to a provisional application).
- a) ☐ The translation of the foreign language provisional application has been received.
- 15) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121.

Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☒ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO-1449) Paper No(s) _____.
- 4) ☐ Interview Summary (PTO-413) Paper No(s). _____.
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other: _____.

Claims 1-19 have been examined.

Specification

The disclosure is objected to because of the following informalities: On page 10, line 11, "SGS 10" should be "auction system 10", since there is no indication of what an SGS is. On page 13, line 6, "theVickrey-Clarke-Grove scheme" should be "the Vickrey-Clarke-Grove scheme." On page 15, line 3, "14 0" should be "140". On page 18, line 25, "predetermined" should be "a predetermined". On page 19, line 11, "module 42" should be "module 44".

Appropriate correction is required.

Claim Objections

Claims 1-19 are objected to because of the following informalities: In the fifth line of claim 1 (line 10 on page 25), "the bidder" lacks proper antecedent basis (and note that "the bidder" is also used in the eighth line of the claim, line 13 on page 25). Claim language must be consistent between "bidder" and "buyer". In the seventh line of claim 1 (line 12 on page 25), "transaction" should be "transactions". Appropriate correction is required.

Claims 2-4 are objected to because of the following informalities: In the sixth line of claim 2, (line 25 on page 25), the comma after the second occurrence of "said bid" should be a semicolon. Appropriate correction is required.

Claim 4 is objected to because of the following informalities: In each of the third, fifth, and seventh lines of claim 4 (lines 7, 9, and 11 on page 26), there should be an "is" between "programming" and "configured". In the fourth and sixth lines of claim 4 (lines 8 and 10 on page 26), the commas after "sale" should be semicolons. Appropriate correction is required.

Claims 5-8 are objected to because of the following informalities: In the second line of claim 5 (line 15 on page 26), the comma after "transactions" should be a colon. In the fourth, sixth, eighth, tenth, and twelfth lines of claim 5 (lines 17, 19, 21, 23, and 25 of page 26), the commas at the end of the clauses should be semicolons. Appropriate correction is required.

Claim 8 is objected to because of the following informalities: In each of the third, fifth, and seventh lines of claim 8 (lines 12, 14, and 16 on page 27), there should be an "is" between "programming" and "configured". In the fourth and sixth lines of claim 8 (lines 13 and 15 on page 27), the commas after "sale" should be semicolons. Appropriate correction is required.

Claim 9 is objected to because of the following informalities: In the second line of claim 9 (line 20 on page 27), the comma after "transactions" should be a colon. In the fourth, sixth, eighth, tenth, twelfth, and fourteenth lines of claim 9 (lines 22 and 24 on page 27; lines 2, 4, 6, and 8 on page 28), the commas at the ends of the clauses should be semicolons. Appropriate correction is required.

Claim 10 is objected to because of the following informalities: In the fifth line of claim 10 (line 16 on page 28), "from a plurality" should be "from each of a plurality". In

the third line of claim 10 (line 14 on page 28), the comma after "transactions" should be a colon. In the fifth, seventh, ninth, eleventh, fifteenth, and seventeenth lines of claim 10 (lines 16, 18, 20, and 22 on page 28; lines 2 and 4, on page 29), the commas at the ends of the clauses should be semicolons. Appropriate correction is required.

Claim 11 is objected to because of the following informalities: In the second line of claim 11 (line 9 on page 29), the comma after "transactions" should be a colon. In the fourth and sixth lines of claim 11 (lines 11 and 13 on page 29), the commas at the ends of the clauses should be semicolons. In the seventh and eighth lines of claim 11 (lines 14 and 15 on page 29), "said items" and "said bidders" pose antecedent basis problems, so the claim should be appropriately rewritten. Appropriate correction is required.

Claim 12 is objected to because of the following informalities: In the second line of claim 12 (line 19 on page 29), the comma after "transactions" should be a colon. In the fourth, sixth, and eighth lines of claim 12 (lines 21, 23, and 25 on page 29), the commas at the ends of the clauses should be semicolons. Appropriate correction is required.

Claim 13 is objected to because of the following informalities: In the second line of claim 13 (line 6 on page 30), the comma after "transactions" should be a colon. In the fourth, sixth, eighth, and tenth lines of claim 13 (lines 8, 10, 12, and 14 on page 30), the commas at the ends of the clauses should be semicolons. In the twelfth line of claim 13 (line 16 on page 30), "for plurality" should be "for the plurality" or "for said plurality". Appropriate correction is required.

Claim 14 is objected to because of the following informalities: In the second line of claim 14 (line 20 on page 30), the comma after "transactions" should be a colon. In the fourth, sixth, eighth, tenth, twelfth, and fourteenth lines of claim 14 (lines 22 and 24 on page 30; lines 2, 4, 6, and 8 on page 31), the commas at the ends of the clauses should be semicolons. In the fourteenth line of claim 14 (line 8 on page 31), "'featured' mode," should be followed by "but not to attach the rebate if the bid is placed for a good during 'normal' mode;". In the sixteenth line of claim 14 (line 10 on page 31), "if a rebate" should be "if and only if a rebate". These changes should remove any ambiguity about the functioning of the system. Appropriate correction is required.

Claim 15 is objected to because of the following informalities: In the second line of claim 15 (line 14 on page 31), the comma after "transactions" should be a colon. In the fourth and sixth lines of claim 15 (lines 16 and 18 on page 31), the commas at the ends of the clauses should be semicolons. Appropriate correction is required.

Claim 16 is objected to because of the following informalities: In the second line of claim 16 (line 23 on page 31), the comma after "transactions" should be a colon. In the fourth, sixth, eighth, and tenth lines of claim 16 (line 25 on page 31; lines 2, 4, and 6 on page 32), the commas at the ends of the clauses should be semicolons. In the seventh line of claim 16 (line 3 on page 32), "conditioned event" is inconsistent with "condition event" in the line ninth, tenth, and twelfth lines of claim 16 (lines 5-6 and 8 page 32). Appropriate correction is required.

Claim 17 is objected to because of the following informalities: In the second line of claim 17 (line 11 on page 32), the comma after "transactions" should be a colon. In

the fourth and seventh lines of claim 17 (lines 13 and 16 on page 32), the commas at the ends of the clauses should be semicolons. Appropriate correction is required.

Claim 18 is objected to because of the following informalities: In the second line of claim 18 (line 21 on page 32), the comma after "transactions" should be a colon. In the fourth and sixth lines of claim 18 (lines 23 and 25 on page 32), the commas at the ends of the clauses should be semicolons. In the fifth line of claim 18 (line 24 on page 32), "from a plurality" should be "from each of a plurality", or the claim language otherwise amended to describe the intended invention accurately and consistently. Appropriate correction is required.

Claim 19 is objected to because of the following informalities: In the second line of claim 19 (line 6 on page 33), the comma after "transactions" should be a colon. In the fourth, seventh, ninth, and eleventh lines of claim 19 (lines 8, 11, 13, and 15 on page 33), the commas at the ends of the clauses should be semicolons. In the thirteenth line of claim 19, (line 17 on page 33), "rounds" should be "round", since the preceding words are "each subsequent". Appropriate correction is required.

Claim Rejections - 35 USC § 102

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(e) the invention was described in (1) an application for patent, published under section 122(b), by another filed in the United States before the invention by the applicant for patent or (2) a patent granted on an application for patent by another filed in the United States before the invention by the applicant for patent, except that an international application filed under the treaty defined in section 351(a) shall have the effects for purposes of this subsection of an application filed in the United States

only if the international application designated the United States and was published under Article 21(2) of such treaty in the English language.

Claims 1 and 13 are rejected under 35 U.S.C. 102(e) as being anticipated by Pallakoff (U.S. Patent 6,269,343). As per claim 1, Pallakoff discloses, in a computer device, an online auction system having at least one seller member (seller) and at least one buyer member (buyer) (Figure 1; column 2, line 52, through column 3, line 27), said auction system comprising: (a) an interface module configured to provide a user interface between the seller and the buyer (Figures 1 and 2; column 2, line 52, through column 3, line 36); (b) a transaction module operatively coupled for communication to said interface module configured to manage transactions associated with moves made by the seller and the bidder in conjunction with a sale of an item by the seller (Figures 1, 2, and 3; column 2, line 52, through column 5, line 45); and (c) a mechanism module operatively connected for communication to said transaction module, said mechanism module defining at least one auction rule, said transaction module further configured to carry out transactions according to said auction rule defined by said mechanism module (Figures 1, 2, and 3; column 2, line 52, through column 5, line 45).

As per claim 13, Pallakoff discloses programming associated with transactions (column 11, line 65, through column 12, line 4), and discloses receiving from a seller a plurality of goods for sale, said plurality of goods defining a bundle (column 4, lines 20-29); receiving from the seller a shared reserve price for the bundle (column 6, lines 6-35); opening sale of the plurality of goods (column 4, lines 42-44); receiving bids for said plurality of goods from bidders (column 4, lines 45-52); and closing sale of the plurality of goods when the total bid amounts for the plurality of goods satisfies the shared

reserve price (column 5, lines 33-45; see also column 7, line 60, through column 8, line 62).

Claim Rejections - 35 USC § 103

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

This application currently names joint inventors. In considering patentability of the claims under 35 U.S.C. 103(a), the examiner presumes that the subject matter of the various claims was commonly owned at the time any inventions covered therein were made absent any evidence to the contrary. Applicant is advised of the obligation under 37 CFR 1.56 to point out the inventor and invention dates of each claim that was not commonly owned at the time a later invention was made in order for the examiner to consider the applicability of 35 U.S.C. 103(c) and potential 35 U.S.C. 102(e), (f) or (g) prior art under 35 U.S.C. 103(a).

Claim 2 is rejected under 35 U.S.C. 103(a) as being unpatentable over Pallakoff (U.S. Patent 6,269,343) as applied to claim 1 above, and further in view of Aggarwal et al. (U.S. Patent 6,151,589). Pallakoff does not disclose receiving in conjunction with a bid an expiration condition, but Aggarwal teaches receiving a bid from a bidder for an item for sale, receiving in conjunction with said bid an expiration condition for said bid, and canceling said bid when said expiration condition is met (Abstract; column 3, lines

8-19; Figure 3). (Note also Chaves, U.S. Patent Application Publication 2001/0044769, paragraph 128.) Hence, it would have been obvious to one of ordinary skill in the art of electronic commerce at the time of applicant's invention to receive a bid from a bidder for an item for sale, receive in conjunction with said bid an expiration condition for said bid, and cancel said bid when said expiration condition is met, for the obvious advantage of encouraging bids by enabling bidders not to be bound by outdated bids which may no longer be advantageous in view of changed circumstances, and distinguishing valid from expired bids; also, in Aggarwal's system, for the stated advantage (column 3, lines 51-54) of optimizing the auctioneers' objective function of keeping the buyers bidding against each other, while making sure that the premium bidders do not defect.

Claim 3 is rejected under 35 U.S.C. 103(a) as being unpatentable over Pallakoff (U.S. Patent 6,269,343) and Aggarwal et al. (U.S. Patent 6,151,589) as applied to claim 2 above, and further in view of the article "Yahoo! Introduces Auctions Express Program; New Automated Service Helps Heavy Volume Sellers Sell More on the Web," hereinafter "Yahoo!". Pallakoff does not disclose that the seller can close the auction at any time, but "Yahoo!" teaches this (see item beginning "Early Close"). Hence, it would have been obvious to one of ordinary skill in the art of electronic commerce at the time of applicant's invention to allow the seller to close the auction at any time, for the stated advantage of enabling the seller to make a sale if the seller is satisfied with the current bid price.

Claim 5 is rejected under 35 U.S.C. 103(a) as being unpatentable over Pallakoff (U.S. Patent 6,269,343) as applied to claim 1 above, and further in view of Aggarwal et al. (U.S. Patent 6,151,589) and Swann ("Paper Trading on the Web: A Net Gain?"). Pallakoff does not disclose receiving in conjunction with a bid offer an expiration condition, but Aggarwal teaches receiving a bid offer from a bidder for an item for sale, receiving in conjunction with said bid offer an expiration condition for said bid offer, and canceling said bid offer when said bid expiration condition is met (Abstract; column 3, lines 8-19; Figure 3). (Note also Chaves, U.S. Patent Application Publication 2001/0044769, paragraph 128.) Hence, it would have been obvious to one of ordinary skill in the art of electronic commerce at the time of applicant's invention to receive a bid from a bidder for an item for sale, receive in conjunction with said bid an expiration condition for said bid, and cancel said bid when said bid expiration condition is met, for the obvious advantage of encouraging bids by enabling bidders not to be bound by outdated bids which may no longer be advantageous in view of changed circumstances, and distinguishing valid from expired bids; also, in Aggarwal's system, for the stated advantage (column 3, lines 51-54) of optimizing the auctioneers' objective function of keeping the buyers bidding against each other, while making sure that the premium bidders do not defect.

Pallakoff does not disclose receiving in conjunction with a sale offer an expiration condition, but Swann discloses receiving a sale offer from a seller for an item for sale, receiving in conjunction with said sale offer an expiration condition for said sale offer, and canceling said sale offer when said sale expiration condition is met (description of

PaperDeals.com, especially the paragraph beginning "The seller sets a minimum"). Hence, it would have been obvious to one of ordinary skill in the art of electronic commerce at the time of applicant's invention to receive a sale offer from a seller for an item for sale, receive in conjunction with said sale offer a sale expiration condition for said sale offer, and cancel said sale offer when said bid expiration condition is met, for the obvious advantage of encouraging sale offers by enabling sellers not to be bound by outdated offers which may no longer be advantageous in view of changed circumstances, distinguishing valid from expired sale offers, and assuring potential buyers that the auction will be closed, enabling them to receive whatever item(s) they successfully bid on, within a reasonable time.

Claim 6 is rejected under 35 U.S.C. 103(a) as being unpatentable over Pallakoff (U.S. Patent 6,269,343), Aggarwal et al. (U.S. Patent 6,151,589) and Swann ("Paper Trading on the Web: A Net Gain?") as applied to claim 5 above, and further in view of the article "Yahoo! Introduces Auctions Express Program; New Automated Service Helps Heavy Volume Sellers Sell More on the Web," hereinafter "Yahoo!". Pallakoff does not disclose that the seller can close the auction at any time, but "Yahoo!" teaches this (see item beginning "Early Close"). Hence, it would have been obvious to one of ordinary skill in the art of electronic commerce at the time of applicant's invention to allow the seller to close the auction at any time, for the stated advantage of enabling the seller to make a sale if the seller is satisfied with the current bid price.

Claim 7 is rejected under 35 U.S.C. 103(a) as being unpatentable over Pallakoff (U.S. Patent 6,269,343), Aggarwal et al. (U.S. Patent 6,151,589) and Swann ("Paper

Trading on the Web: A Net Gain?") as applied to claim 5 above, and further in view of Rackson et al. (U.S. Patent 6,415,270). Pallakoff does not disclose that the buyer can close the auction at any time, but Rackson teaches this (column 23, lines 6-10). Hence, it would have been obvious to one of ordinary skill in the art of electronic commerce at the time of applicant's invention to allow the buyer to close the auction at any time, for the obvious advantage of enabling the buyer to acquire an urgently desired item.

Claim 7 is rejected under 35 U.S.C. 103(a) as being unpatentable over Pallakoff (U.S. Patent 6,269,343), Aggarwal et al. (U.S. Patent 6,151,589) and Swann ("Paper Trading on the Web: A Net Gain?") as applied to claim 5 above, and further in view of Gillman (U.S. Patent Application Publication 2002/0147674). Pallakoff does not disclose that the buyer can close the auction at any time, but Gillman teaches this (paragraph 45; note also paragraphs 46 and 48). Hence, it would have been obvious to one of ordinary skill in the art of electronic commerce at the time of applicant's invention to allow the buyer to close the auction at any time, for the stated advantages of enabling the buyer to acquire an urgently desired item immediately, or simply to acquire an item for which the price and delivery terms are satisfactory.

Claim 10 is rejected under 35 U.S.C. 103(a) as being unpatentable over Pallakoff (U.S. Patent 6,269,343), as applied to claim 1 above, and further in view of Vanderporten ("Strategic Behavior in Pooled Condominium Auctions") and official notice. Pallakoff discloses receiving bids from bidders, said bids indicating the number of units requested by said bidders (column 7, lines 31-46); and limiting allocation to each bidder according to the number of units requested by said bidder (column 8, lines

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41-62). Pallakoff does not disclose that said bid is a substitute for another bid, but official notice is taken that it is well known for bids to comprise substitute commands, or to be received in conjunction with substitute commands, indicating that said bid is a substitute for a previous bid (e.g., in a conventional open outcry auction, bidder A may bid \$100, after which bidder B may bid \$105, after which bidder A may bid \$110, the \$110 bid being a substitute for the previous \$100 bid). Hence, it would have been obvious to one of ordinary skill in the art of electronic commerce at the time of applicant's invention to have bids comprise substitute commands, for the obvious advantage of enabling bidders to enter new bids without being simultaneously committed to old and new bids, perhaps obligating them to buy more items than desired.

Pallakoff does not expressly disclose receiving at least one item for sale from each of a plurality of sellers, but official notice is taken that it is well known to receive items from multiple sellers. Hence, it would have been obvious to one of ordinary skill in the art of electronic commerce at the time of applicant's invention to receive at least one item from each of a plurality of sellers, for the obvious advantage of profiting from the auction of more items than a single seller had available for sale.

Pallakoff does not disclose aggregating items for sale into a unified combinatorial auction, but Vanderporten teaches combining items to be sold into a unified auction; offering the items for sale in a unified auction; receiving bids from bidders; and allocating items to the highest bidders (Abstract). Hence, it would have been obvious to one of ordinary skill in the art of electronic commerce at the time of applicant's invention

to combine items to be sold into a unified auction, offer the items for sale in a unified auction, receive bids from bidders, and allocate items to the highest bidders, for the obvious advantage of obtaining the best prices for the sellers.

Claim 15 is rejected under 35 U.S.C. 103(a) as being unpatentable over Pallakoff (U.S. Patent 6,269,343) as applied to claim 1 above, and further in view of the article "Firm Being Investigated for Misrepresentation." Pallakoff discloses receiving a plurality of goods for sale (column 4, lines 20-29); and receiving bids for said goods from a plurality of bidders (column 4, line 42, through column 5, line 45). Pallakoff does not disclose providing a rebate to the highest bidder, but the article "Firm Being Investigated for Misrepresentation" teaches providing a rebate to the highest bidder. Hence, it would have been obvious to one of ordinary skill in the art of electronic commerce at the time of applicant's invention to provide a rebate to the highest bidder, for the stated advantage of carrying out an affirmative action policy, or for the obvious advantage of acting in accordance with a rebate coupon issued to drum up more business. (Examiner is aware that neither the "Firm Being Investigated" article nor the practice of issuing coupons and making rebate offers involves providing a rebate to the highest bidder by reason of his being the highest bidder, but that is not a limitation of the claim.)

Claim 15 is rejected under 35 U.S.C. 103(a) as being unpatentable over Pallakoff (U.S. Patent 6,269,343) as applied to claim 1 above, and further in view of Bezos et al. (U.S. Patent 6,606,608). Pallakoff discloses receiving a plurality of goods for sale (column 4, lines 20-29); and receiving bids for said goods from a plurality of bidders (column 4, line 42, through column 5, line 45). Pallakoff does not disclose providing a

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rebate to the highest bidder, but Bezos teaches doing so (Abstract; column 2, line 46, through column 3, line 23). Hence, it would have been obvious to one of ordinary skill in the art of electronic commerce at the time of applicant's invention to provide a rebate to the highest bidder, for the stated advantages of encouraging bidders to bid early, so as to encourage bidding proceed to higher prices, and encouraging bidders to submit high bids.

Claim 16 is rejected under 35 U.S.C. 103(a) as being unpatentable over Pallakoff (U.S. Patent 6,269,343) as applied to claim 1 above, and further in view of Kinney, Jr. et al. (U.S. Patent 6,564,192). Pallakoff discloses receiving at least one item for sale by a seller (column 4, lines 20-29); and receiving from a bidder at least one bid for the item (column 4, lines 42-52). Pallakoff does not disclose receiving a conditioned event attached to the sale of an item, etc., but Kinney teaches having condition events attached to the sale of an item (Abstract; column 4, lines 9-52); and allocating terms of sale according to the occurrence of condition events (column 6, line 35, through column 7, line 24; column 7, line 54, through column 8, line 3); from which determining whether condition events have occurred is inherent. Hence, it would have been obvious to one of ordinary skill in the art of electronic commerce at the time of applicant's invention to receive a condition event attached to the sale of the item, determine whether said condition event has occurred, and allocate the terms of sale according to the occurrence of the condition event, for the stated advantage of enabling a price to vary with changes in market conditions without the parties having to renegotiate prices for each order over a contract term.

Claim 17 is rejected under 35 U.S.C. 103(a) as being unpatentable over Pallakoff (U.S. Patent 6,269,343) as applied to claim 1 above, and further in view of the PR Newswire release "To Business and Retailing Editors," hereinafter the PR Newswire, and official notice. Pallakoff discloses receiving at least one item for sale by a seller (column 4, lines 20-29). Pallakoff does not disclose receiving a price warranty associated with the sale of the item, said price warranty indicating the warranty terms, but the PR Newswire teaches this (paragraph beginning "SOLD!, a catalog and online auction"). Hence, it would have been obvious to one of ordinary skill in the art of electronic commerce at the time of applicant's invention to receive a price warranty associated with the sale of the item, for the obvious advantage of attracting potential buyers.

The PR Newswire does not expressly disclose listing the item for sale including the price warranty terms, but official notice is taken that when there are price warranties associated with items, it is well known for the price warranty terms to be listed. Hence, it would have been obvious to one of ordinary skill in the art of electronic commerce at the time of applicant's invention to list the item for sale including the price warranty terms, for the obvious advantage of enabling the warranty to accomplish its objective of attracting potential buyers, which would scarcely be possible if the warranty terms were not listed.

Allowable Subject Matter

Claim 4 is objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims, and also amended to correct all errors objected to.

The following is a statement of reasons for the indication of allowable subject matter: The closest prior art of record, Pallakoff, discloses an online auction system according to claim 1, and Aggarwal et al. disclose further features of claim 2. Vickrey auctions, in which the first-highest standing bid and all other bids are maintained in confidence until the close, when the highest bidder acquires the item at the price bid by the second highest bidder are well known (and described, for example, in Moshal et al., U.S. Patent Application Publication 2002/0004787, paragraph 150). However, no prior art of record teaches a quasi-Vickrey auction where only the second-highest standing bid is revealed during the course of the auction.

Claim 8 is objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims, and also amended to correct all errors objected to.

The following is a statement of reasons for the indication of allowable subject matter: The closest prior art of record, Pallakoff, discloses an online auction system according to claim 1, while Aggarwal et al. and Swann ("Paper Trading on the Web: A Net Gain?") disclose further features of claim 5. Vickrey auctions, in which the first-highest standing bid and all other bids are maintained in confidence until the close, when the highest bidder acquires the item at the price bid by the second highest bidder

are well known (and described, for example, in Moshal et al., U.S. Patent Application Publication 2002/0004787, paragraph 150). However, no prior art of record teaches a quasi-Vickrey auction where only the second-highest standing bid is revealed during the course of the auction.

Claim 9 is objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims, and also amended to correct all errors objected to.

The following is a statement of reasons for the indication of allowable subject matter: The closest prior art of record, Godin et al. (U.S. Patent 5,890,138) disclose an auction system wherein the sale price of the item is decreased at a predetermined interval during the sale of the item. Godin et al. do not disclose a reserve price below which the item will not be sold, but such reserve prices are well known. Vickrey auctions, in which the first-highest standing bid and all other bids are maintained in confidence until the close, when the highest bidder acquires the item at the price bid by the second highest bidder are well known (and described, for example, in Moshal et al., U.S. Patent Application Publication 2002/0004787, paragraph 150). However, neither Godin, Moshal, nor any other prior art of record teaches a quasi-Vickrey auction where only the second-highest standing bid is revealed during the course of the auction.

Claim 11 is objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims, and also amended to correct all errors objected to.

The following is a statement of reasons for the indication of allowable subject matter: The closest prior art of record, Pallakoff, discloses the limitations of claim 1, and receiving from a bidder at least one bid for an item for sale, but does not disclose receiving in conjunction with said bid a priority ranking value for the item, or allocating a plurality of items for sale to a plurality of bidders according to the highest bids for the items, and according to bidders' highest priority ranking values placed on the items. No other prior art of record makes up these deficiencies of Pallakoff's.

Claim 12 is objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims, and also amended to correct all errors objected to.

The following is a statement of reasons for the indication of allowable subject matter: The closest prior art of record, Pallakoff, discloses the limitations of claim 1, and discloses larger numbers of items being sold at a lower price per item (see column 4, lines 20-29). However, neither Pallakoff nor any other prior art of record teaches or reasonably suggests decreasing the sale price for goods such that the sale price is inversely proportional to the number of bids received for said goods.

Claim 14 is objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims, and also amended to correct all errors objected to.

The following is a statement of reasons for the indication of allowable subject matter: The closest prior art of record, Pallakoff, discloses the limitations of claim 1, and discloses receiving a plurality of goods for sale, and receiving at least one bid from a bidder, but does not disclose listing any of those goods for sale in a "featured" mode, and attaching a rebate to a bid, if the bid is placed for a good during the "featured" mode, and allocating a rebate to the highest winning bid if a rebate is attached to said bid at the close of sale for the item. Features goods with rebates are well known; an example with which the Examiner is familiar is that of several local grocery stores, which advertise weekly features, and provide rebates at the checkout register on featured items (provided that the shopper has an appropriate supermarket club card, also scanned at checkout). However, that system applies to stores charging a fixed price for goods in "normal" mode, and a different fixed price for goods in "featured" mode, which is quite different from an auction where the price is determined by bidding. Therefore, it is held to be nonobvious to apply the featured item method of grocery and other stores to an auction system.

Claim 18 is objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims, and also amended to correct all errors objected to.

The following is a statement of reasons for the indication of allowable subject matter: The closest prior art of record, Pallakoff, discloses the limitations of claim 1, and discloses receiving at least one item for sale by a seller. Bezos discloses giving rebates

to bidders, which may be interpreted as receiving rebate amount requests. However, neither Pallakoff, Bezos, nor any other prior art of record discloses, teaches, or reasonably suggests receiving bids from a plurality of bidders in order from the highest rebate amount to the lowest rebate amount.

Claim 19 is objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims, and also amended to correct all errors objected to.

The following is a statement of reasons for the indication of allowable subject matter: The closest prior art of record, Pallakoff, discloses an online auction system according to claim 1, but neither Pallakoff nor any other prior art of record discloses a tournament auction where one item is auctioned in each round of bidding, and where a subset of the bidders from previous rounds are admitted to each subsequent round, the subset selected according to the bid amount placed by each buyer such that buyers with higher bids are prioritized over bidders with lower bids. DeMaeyer ("PCS Auctions: Ready or Not, Here They Come") provides an example of bidders having to remain active to remain eligible in an auction, but the rules are not the same, and DeMaeyer does not pertain to an auction where one item is auctioned in each round of bidding.

Conclusion

The prior art made of record and not relied upon is considered pertinent to applicant's disclosure. Pearson et al. (U.S. Patent 5,018,736) disclose an interactive

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game system and method (relevant to claim 19 because of multiple rounds). Woolston (U.S. Patent 5,845,265) discloses consignment nodes. Godin et al. (U.S. Patent 5,890,138) disclose a computer auction system. Ausubel (U.S. Patent 6,026,383) discloses a system and method for an efficient dynamic auction for multiple objects. Walker et al. (U.S. Patent 6,119,100) disclose a method and apparatus for managing the sale of aging products. Fisher et al. (U.S. Patent 6,243,691) disclose a method and system for processing and transmitting electronic auction information. Feinberg (U.S. Patent 6,366,891) discloses a data processing system for conducting a modified on-line auction.

Adamson et al. (U.S. Patent Application Publication 2001/0032168) disclose tradable contingent securities bundled with activity permits. Holden et al. (U.S. Patent Application Publication 2001/0032175) disclose a system and method for an on-line industry auction site. Chaves (U.S. Patent Application Publication 2001/0044769) discloses motor vehicle dealer e-tailing. Moshal et al. (U.S. Patent Application Publication 2002/0004787) disclose a method for conducting an exchange over a network. Cha (U.S. Patent Application Publication 2003/0126069) discloses an automatic ordering method and system for trading stocks, bonds, items, future indices, options, etc.

Sako (Japanese Published Patent Application 2000-200311) discloses an auction system where bids other than the highest bid are concealed.

The anonymous article, "New Jersey and Maryland Hotel Properties Included in Sealed Bid Sale on April 16," discloses an auction with an aggregate reserve price.

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DeMaeyer ("PCS Auctions: Ready or Not, Here They Come") discloses auctions for broadcast licenses. The anonymous article, "Lufthansa Flying High with Korea; German Airlines began Working Here 30 Years Ago," discloses, inter alia, auctions with special offers to the highest bidder. Teather ("Branson Hopes to Buy One2One out of Mobile Phone Venture") discloses an auction with a combined reserve price.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Nicholas D. Rosen, whose telephone number is 703-305-0753. The examiner can normally be reached on 8:30 AM - 5:00 PM, M-F.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Wynn Coggins, can be reached on 703-308-1344. The fax phone number for the organization where this application or proceeding is assigned is 703-305-7687 for regular communications and for After Final communications (soon to be superseded by 703-872-9306).

The new mailing address for the Patent Office is:

Commissioner for Patents

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Alexandria VA 22313-1450

As of May 1, 2003, the former addresses, Washington DC 20231 and P.O. Box 2327 Arlington VA 22202, should **not** be used.

Papers can be hand-delivered to the Technology Center 3600 receptionist, 7th floor, Crystal Park 5, 2451 Crystal Drive, Arlington VA 22202.

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Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is 703-308-1113.

Nicholas D. Rosen
NICHOLAS D. ROSEN
PRIMARY EXAMINER

August 18, 2003